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17

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

18 In re:

19 THE ROMAN CATHOLIC BISHOP OF
20 OAKLAND, a California corporation sole,

21 Debtor.

22 Bankruptcy Case
23 No. 23-40523 WJL

24 Chapter 11

25 Date: May 9, 2023
26 Time: 1:30 p.m.
27 Place: 1300 Clay Street, Ctrm 220
28 Oakland, CA
[In Person or via Zoom]

19

**UNITED STATES TRUSTEE'S OMNIBUS OBJECTION TO
DEBTOR'S FIRST DAY MOTIONS [ECF Nos. 6, 13, & 16]
AND RESERVATION OF RIGHTS**

20 Tracy Hope Davis, United States Trustee for Region 17 (the "UST"), hereby files this
21 omnibus objection (the "Omnibus Objection") to three first-day motions filed in this case. These
22 first day motions are referred to collectively hereafter as the "First Day Motions", or
23 individually, as set forth below:

- 24
- 25 • *Debtor's Motion for an Order Authorizing and Approving Special Noticing
26 and Confidentiality Procedures* (ECF No. 6) (the "Confidentiality Procedures
27 Motion");

- 1 • *Debtor's Motion for Interim and Final Orders Authorizing the Debtor to (I) Pay Prepetition Employee Wages, Salaries, Benefits and Other Related Items, (II) Reimburse Prepetition Employee Business Expenses, (III) Continue Employee Benefit Programs, and (IV) Pay All Costs and Expenses Incident to the Foregoing* (ECF No. 13) (the "Wages Motion"); and
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- 3
- 4 • *Debtor's Motion for Interim and Final Orders Authorizing the Debtor to (I) (A) Continue Existing Cash Management System, (B) Honor Certain Prepetition Obligations Related to the Use Thereof, (C) Continue Intercompany Arrangements, (D) Maintain Existing Bank Accounts and Business Forms, and (E) Continue Use of Existing Credit Card Accounts; and (II) Waive Certain Requirements of 11 U.S.C. § 345(b)* (ECF No. 16) (the "Cash Management Motion").¹
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9 This Omnibus Objection is supported by the following memorandum of points and
10 authorities and any argument the Court may permit on the Omnibus Objection.²

11 I. **MEMORANDUM OF POINTS AND AUTHORITIES**

12 A. **Introduction**

13 1. The Debtor's requests for relief in the First Day Motions should be: (a) denied;
14 (b) denied in part; or (c) limited to only emergency relief to permit the Debtor to sustain business
15 operations. The UST is scheduling the initial debtor interview. The meeting of creditors
16 pursuant to 11 U.S.C. § 341 is currently scheduled for June 12, 2023. The UST is in the process
17 of soliciting creditors to form an official committee of unsecured creditors. In the best interest of
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21 ¹ The UST takes no position on the following additional "first day motions" filed by the
22 Debtor: (i) the application to appoint Kurtzman Carson Consultants LLC as claims and noticing agent
23 (ECF No. 5); (ii) the motion with respect to abuse survivors' assistance and safe environment programs
24 (ECF No. 8); (iii) the motion regarding utility services under 11 U.S.C. § 366 (ECF No. 14); and (iv) the
25 motion regarding insurance coverage (ECF No. 15). The UST reserves all rights to object to any final
relief sought by the Debtor in these motions.

26 ² The UST requests that the Court take judicial notice of the pleadings and documents filed
27 in this case pursuant to Federal Rule of Bankruptcy Procedure 9017 and Federal Rule of Evidence 201.
28 To the extent that the Omnibus Objection contains factual assertions predicated upon statements made by
the Debtor, any of its current or former affiliates, agents, attorneys, professionals, officers, directors or
employees, the UST submits that such factual assertions are supported by admissible evidence in the form
of admissions of a party opponent under Federal Rule of Bankruptcy Procedure 9017 and Federal Rule of
Evidence 801(d)(2).

1 creditors, the Court should either sustain this Omnibus Objection or adjourn the hearing on these
2 First Day Motions to a later date to allow any creditors committee or other creditors a
3 meaningful opportunity to evaluate these First Day Motions.

4 2. The UST reserves all rights with respect to all the Debtor's First Day Motions
5 which are scheduled for hearing on the above-captioned date and time, including, but not limited
6 to her right to take any appropriate action under the Bankruptcy Code, the Federal Rules of
7 Bankruptcy Procedure, and the Local Bankruptcy Rules for the U.S. Bankruptcy Court for
8 Northern District of California.

9 **B. Background Facts and Procedural Posture**

10 3. On May 8, 2023 (the "Petition Date"), the Debtor commenced the above-
11 captioned case under Chapter 11 of the Bankruptcy Code. *See* ECF No. 1. The Debtor is
12 currently a debtor in possession under Sections 1107 and 1108 of the Bankruptcy Code.
13

14 4. On the Petition Date, the Debtor filed its list of 20 largest unsecured creditors.
15 *See* ECF No. 1

16 5. The Debtor has not yet filed the required Schedules and Statements, including
17 Schedule A/B, Schedule D, Schedule E/F, and the Statement of Financial Affairs. *See*
18 Bankruptcy Docket, *generally*.

19 6. The UST is in the process of scheduling the Initial Debtor Interview.

20 7. The UST is in the process of soliciting creditors to form an official committee of
21 unsecured creditors.

22 8. The meeting of creditors under 11 U.S.C. § 341(a) is currently scheduled for June
23 12, 2023.

1 9. According to the first day declaration of Charles Moore (ECF No. 19) (the “First
2 Day Declaration”), the Debtor was established “in 1962 from the eastern territory of the
3 Archdiocese of San Francisco. The territory of the diocese spans roughly 1,467 square miles and
4 encompasses two counties, Alameda and Contra Costa.” *See* First Day Declaration, at ¶ 13.
5 There are 82 parish churches within the diocese. *Id.*, at ¶ 22. The parish churches are not
6 separately incorporated under California law. *Id.*, at ¶ 19.
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8 10. According to the First Day Declaration, there are “approximately 332 separate,
9 active lawsuits or mediation demands pending against the Debtor filed by plaintiffs alleging
10 sexual abuse by clergy or others associated with the Debtor.” *See* First Day Declaration, at ¶ 84.
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II. ARGUMENT

13 11. Four principles for Courts to consider with regard to first day motions are:

14 First, the requested relief should be limited to that which is
15 minimally necessary to maintain the existence of the debtor, until
16 such time as the debtor can affect appropriate notice to creditors
17 and parties in interest. In particular, a first day order should avoid
18 substantive rulings that irrevocably determine the rights of parties.

19 Second, first day orders must maintain a level of clarity and
20 simplicity sufficient to allow reasonable confidence that an order
21 will effect no unanticipated or untoward consequences.

22 Third, first day orders are not a device to change the procedural
23 and substantive rights that the Bankruptcy Code and Rules have
24 established. In particular, first day orders should provide no
25 substitute for the procedural and substantive protections of the plan
26 confirmation process.

27 Fourth, no first day order should violate or disregard the
28 substantive rights of parties, in ways not expressly authorized by
29 the Bankruptcy Code.

30 *See In re The Colad Group, Inc.*, 324 B.R. 208, 213-14 (Bankr. W.D.N.Y. 2005).

1 12. Accordingly, the relief sought in the First Day Motions, if granted at all, should
2 be granted only on an interim basis, with a final hearing set so that an Official Committee of
3 Unsecured Creditors, if one can be formed, can review and respond to the final relief sought,
4 preferably after schedules are filed and a meeting of creditors is held.

5 A. **The Confidentiality Procedures Motion**

6 13. As part of the Confidentiality Procedures Motion, the Debtor seeks entry of an
7 Order requiring all parties (not just the Debtor) to file under seal or in redacted form the creditor
8 matrix, schedules, statements and all other documents to the extent such documents contain: (i)
9 non-public names of abuse claimants or those accused of abuse; (ii) contact information of the
10 Debtor's current and former employees; and (iii) personally identifiable information of worker's
11 compensation claimants or minors. *See Confidentiality Procedures Motion*, at ¶¶ 1-2, 26, 41;
12 proposed interim Order (ECF No. 6-1), at ¶ 2.

13 14. Bankruptcy Code Section 107(a) "evidences congress's strong desire to preserve
14 the public's right of access to judicial records in bankruptcy proceedings." *See In re Orion*
15 *Pictures Corp.*, 21 F.3d 24, 26 (2d Cir. 1994); *see also In re Roman Cath. Archbishop of*
16 *Portland in Oregon*, 661 F.3d 417, 429 (9th Cir. 2011) (Section 107(a) "establishes a general
17 right of public access to bankruptcy filings.").

18 15. The right of public access is subject to only three exceptions, which are set forth
19 in 11 U.S.C. §§ 107(b)(1), 107(b)(2), and 107(c)(1). *See In re Roman Cath. Archbishop of*
20 *Portland in Oregon*, 661 F.3d at 430. These exceptions are construed "narrowly." *See In re*
21 *Khan*, 2013 WL 6645436, at *3 (B.A.P. 9th Cir. Dec. 17, 2013).

22 16. The burden is on the moving party to show that a request to place documents
23 under seal falls within the parameters of one of these exceptions. *See In re Dreier LLP*, 485 B.R.
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1 821, 822–23 (Bankr. S.D.N.Y. 2013); *In re Borders Grp., Inc.*, 462 B.R. 42, 46 (Bankr. S.D.N.Y.
2 2011).

3 17. Under the circumstances of this case, the UST does not oppose the Debtor’s
4 request that it be permitted to file under the seal documents containing the names of survivors
5 and/or the names of those accused of abuse. *Cf., In re Roman Cath. Archbishop of Portland in*
6 *Oregon*, 661 F.3d at 433 (“Under the common usage of the word, allegations that a priest has
7 sexually abused children are most assuredly ‘scandalous’ because they bring discredit onto the
8 alleged perpetrators. In light of the mandatory language of § 107(b), the bankruptcy court erred
9 in not granting Fathers M and D’s motion to strike the punitive damage estimation memorandum
10 and its attachments.”).

11 18. However, the UST opposes the Debtor’s request for a standing Order requiring
12 other parties in interest to file under seal or in redacted form documents containing the names of
13 abuse survivors or the names of those accused of abuse. Besides the Debtor, no person has
14 sought to file a document containing such information. Thus, the Debtor’s request is premature
15 and overbroad. *Cf. In re Anthracite Cap., Inc.*, 492 B.R. 162, 171 (Bankr. S.D.N.Y. 2013)
16 (“Inherent in the language of § 107(b) is the requirement that the party requesting the
17 extraordinary relief provide the court with specific factual and legal authority demonstrating that
18 a *particular document* at issue is properly classified as ‘confidential’ or ‘scandalous.’”)
19 (emphasis added).³

20 19. The UST also opposes the Debtor’s request to seal or redact employee contact
21 information on the mailing matrix, schedules, statements, and other filings. Federal Bankruptcy
22

23 27 ³ Any notice of appointment of a creditors’ committee in this case will include the names
24 28 of the committee members.

1 Rule 1007(a) requires debtors to file with the bankruptcy petition a “list containing the name and
2 address of each entity included or to be included on Schedules D, E/F, G, and H” See Fed. R.
3 Bankr. P. 1007(a)(1) (emphasis added). Federal Bankruptcy Rule 1007(b)(1) similarly requires
4 debtors to file schedules of assets and liabilities. See Fed. R. Bankr. Proc. 1007(b)(1).

5 20. The Debtor’s concerns about potential identity theft and harassment are present
6 in almost every bankruptcy case. It would turn Section 107 on its head if these speculative
7 concerns could establish an exception to the general right of public access to bankruptcy
8 documents. Cf., *In re Crawford*, 194 F.3d 954, 960 (9th Cir. 1999) (“[W]e conclude that the
9 speculative possibility of identity theft is not enough to trump the importance of the
10 governmental interests behind § 110 and § 107.”); see also *In re DSRD, Inc.*, Case No. 21-51050
11 (Bankr. N.D. Cal. August 10, 2021) (unnumbered docket entry) (denying debtor’s motion to,
12 *inter alia*, redact home address information on creditor matrix and list of top 30 unsecured
13 creditors).⁴

14 B. The Wages Motion

15 21. As set forth in the Wages Motion, the Debtor employs 30 full-time employees and
16 42 part-time employees. The Debtor also utilizes approximately 40 independent contractors.
17 *See* Wages Motion, at ¶ 2.

18 22. The Debtor seeks authority to, *inter alia*, pay (i) pre-prepetition employee
19 compensation of approximately \$269,000 (\$252,000 on an interim basis), (ii) unreimbursed pre-
20 petition employee expenses of approximately \$26,000, (iii) pre-petition benefit obligations of
21 approximately \$487,000 (\$166,000 on an interim basis), and (iv) pre-petition payroll costs of
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23 27 4 The UST does *not* oppose the Debtor’s request to redact personally identifiable
24 information of worker’s compensation claimants or minors to the extent such information qualifies as
25 personally identifiable information under Fed. R. Bankr. P. 9037 or for which disclosure is prohibited by
26 HIPAA. *See* Confidentiality Procedures Motion, at ¶ 40.

1 approximately \$12,000. *See* Wages Motion, at ¶¶ 35, 48, 52, 106, 108. The Debtor asserts that
2 “the overwhelming majority, if not all, of claims of the Employees and Contractors will be
3 entitled to priority treatment under section 507 of the Bankruptcy Code.” *Id.*, at ¶ 5.

4 23. It appears that approximately \$17,000 of the proposed payments would be made
5 to insiders of the Debtor. *See* Wages Motion, at ¶ 48. It further appears that some of the
6 Debtor’s pre-petition benefit obligations may not be entitled to priority status under 11 U.S.C. §§
7 507(a)(4) or (5), such as health benefits for retired priests and extended study assignments for
8 clergy. *Id.*, at ¶¶ 80-82, 101.

9 24. The UST takes no position on the payment of (i) pre-petition claims of the
10 Debtor’s non-insider employees that are entitled to priority under Sections 507(a)(4) and
11 507(a)(5), or (ii) the related payroll taxes, deductions and withholdings, provided these amounts
12 do not exceed the statutory cap.

13 25. However, the UST opposes any payments on claims that are not entitled to
14 priority status (including reimbursement of pre-petition business expenses) or that do not comply
15 with 11 U.S.C. § 503(c)(1) and (3). *See, e.g., In re B & W Enterprises, Inc.*, 713 F.2d 534, 537
16 (9th Cir. 1983) (“The Necessity of Payment Rule was created for and has been applied only to
17 railroad cases. Absent compelling reasons, we deem it unwise to tamper with the statutory
18 priority scheme devised by Congress in the 1978 Act.”); *In re EcoSmart, Inc.*, 2015 WL
19 9274245, at *9 (Bankr. C.D. Cal. Dec. 18, 2015) (“[A]bsent the priority status of claims, the
20 courts have not seen justification to allow payment of prepetition claims of so-called ‘critical
21 vendors,’ and this court will follow such examples and require Debtor to demonstrate that the
22 priority status of wage, salary and commission claims of its employees and independent
23 contractors is justified.”); *In re L.A. Care Health Plan, Inc.*, 2015 WL 3432203, at *1 (Bankr.
24 C.D. Cal. June 1, 2015) (“[T]he Bankruptcy Code does not permit the payment of prepetition
25 claims that are not entitled to priority status.”); *In re FirstEnergy Corp.*, 2015 WL 3432204, at *1
26 (Bankr. C.D. Cal. June 1, 2015) (“[T]he Bankruptcy Code does not permit the payment of prepetition
27 claims that are not entitled to priority status.”); *In re FirstEnergy Corp.*, 2015 WL 3432205, at *1
28 (Bankr. C.D. Cal. June 1, 2015) (“[T]he Bankruptcy Code does not permit the payment of prepetition
claims that are not entitled to priority status.”).

1 contractors ... to warrant immediate payment in advance of general distribution on prepetition
2 claims.”).⁵

3 26. Additionally, the Wages Motion does not address whether any proposed payments
4 would be made to accused perpetrators of abuse. *See* Wages Motion generally. Given the
5 sensitivities, no such payments should be authorized at least until the Court holds a final hearing
6 on notice to parties in interest. *See, e.g., In re The Diocese of Rochester*, Case No. 19-20905
7 (Bankr. W.D.N.Y. Sept. 19, 2019) (Order entered as ECF No. 42, at ¶ 3).

8 9 **C. The Cash Management Motion**

10 27. In the Cash Management Motion, the Debtor seeks authorization to, *inter alia*,
11 (i) continue to use its existing cash management system, (ii) continue intercompany
12 transactions with the parish churches and Non-Debtor Catholic Entities, (iii) maintain its pre-
13 petition accounts and business forms, (iv) continue to use its existing credit cards and pay
14 approximately \$25,000 of pre-petition charges, and (v) waive the requirements of 11 U.S.C. §
15 345(b) to the extent applicable. *See* Cash Management Motion, at ¶¶ 74, 81, 89.

16 28. Bankruptcy Code Section 345(b) protects creditors against the loss of estate
17 funds deposited or invested by debtors. *Cf. In re Columbia Gas Systems Inc.*, 33 F.3d 294,
18 301 (3d Cir. 1994) (“Ensuring the safety of the bankruptcy funds has been the foremost goal.”).

19 29. Specifically, Section 345(b) provides that money of the estate shall be insured
20 or guaranteed by the United States or by a department, agency or instrumentality of the United
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25 5 The Debtor asserts that in *In re Adams Apple, Inc.*, 829 F.2d 1484, 1490 (9th Cir. 1987),
26 the Ninth Circuit recognized the doctrine of necessity in the context of employee wages and benefits. *See*
27 Wages Motion, at ¶ 117. The narrow issue before the Court of Appeals, however, was whether a good
28 faith finding under Section 364(e) mooted an appeal challenging the legality of a cross-collateralization
clause in a post-petition financing. *Id.* at 1486. Thus, the quoted language from the *Adams Apple* case is
dicta. *See, e.g., In re Timberhouse Post and Beam Ltd.*, 196 B.R. 547, 550 (Bankr. D. Mont. 1996).

1 States or backed by the full faith and credit of the United States. Money of the estate may also
2 be deposited in an entity that has posted a bond in favor of the United States or has deposited
3 securities with the Federal Reserve Bank.

4 30. A court may waive the requirements of Section 345 upon a showing of “cause.”
5 See 11 U.S.C. § 345(b). Thus, the Court may modify the requirements of Section 345(b) for
6 “‘just cause’ where strict compliance might ‘work to *needlessly handcuff* larger, more
7 sophisticated debtors.’” *See In re Ditech Holding Corp.*, 605 B.R. 10, 22 (Bankr. S.D.N.Y.
8 2019) (emphasis added).

9 31. In order to ensure compliance with Section 345(b), the UST has implemented
10 guidelines for debtors in possession regarding bank accounts (the “UST Guidelines”). Among
11 other things, the UST Guidelines require debtors in possession to close their pre-petition bank
12 accounts and provide proof of the establishment of debtor in possession account(s) at an
13 authorized depository. *See United States Trustee Chapter 11 Operating and Reporting*
14 *Guidelines for Debtors in Possession* (Region 17), at § 3, available at
15 <https://www.justice.gov/ust-regions-r17/region-17-general-information#ch11>.⁶

16 32. Authorized depositories have agreed to maintain collateral, unless an order of
17 the bankruptcy court provides otherwise, in an amount of no less than 115 percent of the
18 aggregate bankruptcy funds on deposit in each bankruptcy estate that exceeds the FDIC
19 insurance limit. *See United States Trustee Program Policy and Practices Manual*, Volume 7,
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25 6 The UST is mindful that some courts have concluded that guidelines established by the
26 UST do not have the force and effect of law. *See, e.g., In re Young*, 205 B.R. 894, 897 (Bankr. W.D.
27 Tenn. 1997); *In re Lani Bird, Inc.*, 113 B.R. 672, 673 (Bankr. D. Hawaii 1990); *In re Gold Standard*
28 *Baking, Inc.*, 179 B.R. 98, 105-06 (Bankr. N.D. Ill. 1995); *In re Johnson*, 106 B.R. 623, 624-25 (Bankr.
B.R. at 624).

1 “Banking and Bonding,” (the “UST Manual”), §§ 7-1.1 and 7-1.2.1, at pp. 1-2, available at
2 <https://www.justice.gov/ust/united-states-trustee-program-policy-and-practices-manual>.

3 Authorized depositories have also agreed to make periodic reports so that the UST can monitor
4 compliance. *See* UST Manual, § 7-1.3.2, at p. 5.

5 33. Here, according to Exhibit D to the Cash Management Motion, the Debtor
6 maintains fourteen bank accounts and one investment account. *See* ECF No. 16-4, at p. 2 of 2
7 (“Exhibit D”). Specifically, the Debtor holds:

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- 9 • three (3) accounts at Union Bank, N.A.;
 - 10 • ten (10) account at U.S. Bank, N.A.;
 - 11 • one (1) account at Citibank, N.A.; and
 - 12 • one (1) account at Charles Schwab & Co. (“Schwab”) to monetize donated
13 stock. As of the Petition Date, the Debtor is holding approximately \$32,000 in
14 the Schwab account.

15 *Id.*; Cash Management Motion, at ¶ 30, 63-64.

16 34. According to the Cash Management Motion, the Debtor’s cash management
17 system is “comprised of (a) Bank Accounts into which unrestricted receipts and other
18 receivables generated are collected and from which funds are subsequently disbursed to pay
19 the general operating expenses of the Chancery and other ordinary course obligations of the
20 Debtor [and] (b) Bank Accounts into which restricted, entrusted, and/or insurance-related pass-
21 through funds are collected and from which funds are subsequently disbursed or otherwise
22 transferred to the intended beneficiaries or recipients“ *See* Cash Management Motion, at ¶
23 2.

24 35. The Cash Management Motion does not comprehensively address the respective
25 balances in the Debtor’s accounts, including the balance in the Debtor’s Unrestricted General
26
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1 Operating Account at Union Bank. *See* Cash Management Motion, at ¶¶ 37-39, 52, 55, and 64
2 and Exhibit D.

3 36. Union Bank of California, U.S. Bank, and Citibank F.S.B. are authorized
4 depositories in the Northern District of California. *See* <https://www.justice.gov/ust-regions-r17/region-17-general-information#ch11>; *see also* Cash Management Motion, at ¶ 30.
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7 37. The UST objects to the Cash Management Motion and the entry of an order
8 waiving the requirements of Section 345 because the Debtor has failed to provide evidence that
9 supports a finding that cause exists for the waiver of the requirements of Section 345(b). The
10 Debtor has provided incomplete information regarding the funds held in the Debtor's accounts,
11 including the balance of each account. Although the Debtor asserts that the benefits of a
12 waiver of Section 345(b) "far outweigh any potential harm" (Cash Management Motion, at ¶
13 125), the Debtor's self-serving conclusion is insufficient to establish cause under Section 345.
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16 38. While the Debtor suggests that funds in one or more of the accounts may or
17 may not be property of the estate, the overriding concern of the UST is that, should a failure
18 contemplated by Section 345 occur resulting in the loss of funds in the accounts, the Debtor
19 would remain liable. In contrast, by virtue of the collateralization and reporting requirements
20 imposed on authorized depositories, compliance with the UST Guidelines will ensure
21 compliance with the requirements of 11 U.S.C. § 345(b). These requirements would not
22 "needlessly handcuff" the Debtor, but rather protect estate funds as Congress envisioned. Cf.
23 *In re Ditech Holding Corp.*, 605 B.R. at 22 (requiring debtors to bring accounts into
24 compliance with Section 345(b)).
25

26 39. To the extent the Court is inclined to approve the Cash Management Motion,
27 such approval should be on an interim basis only and such relief should be limited to the
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1 accounts specially identified on the Debtor's Exhibit D.⁷ Moreover, the interim Order should
2 (i) require the Debtor to have its accounts at Union Bank of California, U.S. Bank, and
3 Citibank F.S.B designated as "Debtor in Possession" accounts by the institutions within 15
4 days of entry of the Interim Order, (ii) provide proof to the UST that the accounts have been
5 converted to "Debtor in Possession" accounts no later than the final hearing on the First Day
6 Motions; (iii) require the Debtor to institute a system to regularly "sweep" the funds from its
7 Schwab account into a debtor in possession account at an authorized depository; (iv) prohibit
8 the Debtor from opening new accounts unless such accounts are debtor in possession accounts
9 at authorized depositories in the Northern District of California;⁸ and (v) track all
10 intercompany transactions.

11
12 40. Finally, the UST opposes payment of pre-petition balances owing on the
13 Debtor's credit cards. The Debtor has not demonstrated that payment of these pre-petition
14 claims is necessary to avoid immediate and irreparable harm. *See Fed. R. Bankr. P. 6003(b).*
15 Rather, maintenance of the credit cards merely "provides the Debtor with greater flexibility."
16 *See Cash Management Motion, at ¶ 81.*

17
18
19 **III. CONCLUSION**

20 41. In view of the shortened notice provided to creditors and the Debtor's failure to
21 establish a sufficient evidentiary record for the relief sought, the objected to First Day Motions
22 should either be denied in the entirety, denied in part as set forth herein, or any relief granted
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25 7 Paragraph 4 of the proposed Interim Order indicates that the requested relief is not
26 limited to the accounts specifically identified in the Cash Management Motion. *See ECF No. 16-1, at p. 4*
27 of 8 ("The Debtor is ... authorized to ... maintain ... any or all of its existing Bank Accounts ... including
those accounts listed on Schedule 1").

28 8 Paragraph 6 of the proposed Interim Order appears to provide broader authority to open
new accounts. *See ECF No. 16-1, at pp. 4-5 of 8.*

1 should be limited for the Debtor to sustain operations and to provide adequate protection, if any.
2 Alternatively, the First Day Motions should be adjourned until a later date. The adjournment
3 would permit parties that were not provided sufficient notice and any committee the opportunity
4 to be heard on the First Day Motions. The UST reserves all her rights with respect to the First
5 Day Motions and other motions filed on the Petition Date.
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8 **WHEREFORE**, the UST requests the Court to sustain her Omnibus Objection; and grant
9 such other relief as is just under the circumstances.
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12

Dated: May 9, 2023

TRACY HOPE DAVIS
UNITED STATES TRUSTEE

By:/s/ Jason Blumberg
Jason Blumberg
Trial Attorney for the United States Trustee